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APPLICATION NO.	FILING DATE	FIRST-NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,057	07/28/2003	Clay Hunter	HUNC101	5946
7590	11/30/2004			EXAMINER
ROBERT L. SHAVER				WILKENS, JANET MARIE
DYKAS, SHAVER & NIPPER, LLP				
P.O. BOX 877			ART UNIT	PAPER NUMBER
BOISE, ID 83701-0877			3637	

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/629,057	Applicant(s) HUNTER, CLAY
	Examiner Janet M. Wilkens	Art Unit 3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 July 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892) _____ 4) Interview Summary (PTO-413) _____
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) _____
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 11/5/03. 5) Notice of Informal Patent Application (PTO-152) _____
- 6) Other: _____

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the polyhedral and ellipsoidal tabletop, the ellipsoidal base, the threaded projection on the base, the threaded recess in the pole for the base unit attachment means; the threaded projection in the pole for the tabletop unit attachment means, and the gusset must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

(Namely, it is improper to have the phrase "The invention" in the abstract.)

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: nowhere is it stated that the base is polyhedral or ellipsoidal or that the tabletop is polyhedral, there is no mention of a gusset between the base and pole, and nowhere is it stated that there is a threaded recess in the pole for the base unit attachment means or a threaded projection in the pole for the tabletop unit attachment means.

Claim Objections

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When

claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 14-20 have been renumbered 13-19. Note: there is no claim 13 in the original set of claims.

Claim 4 is objected to because of the following informalities: in line 1, "a" should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 1, "the components" lacks antecedent basis. Regarding claim 4, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). For claim 12, "said gripping handle" lacks antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 6, 8, 11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnston. Johnston teaches a swing table (Fig. 1) comprising: a base unit (14) with pole attachment means (12,19,20), a pole (11) with a base unit attachment means (18) and a tabletop attachment means (securement means and top of pole; see columns 1-2, lines 72 and 1-3), and a rotatable ellipsoidal tabletop (10) with a pole securing means (securement means and bottom of tabletop). Furthermore, there is a gusset (13) between the base and pole and the base comprises an extension plate which is configured so that it would be possible to place it under a chair.

Claims 1, 3-5, 8, 11, 13, 15, 16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Siff. Siff teaches a swing table (Fig. 1) comprising: a base unit (13) with pole attachment means (threads in tube /gusset/recess 14), a pole (12) with a base unit attachment means (threads/projection) and a tabletop attachment means (threads/projection), and a rotatable ellipsoidal tabletop (11) with a pole securing means (21,22/recesses). The base comprises an extension plate which is configured so that it would be possible to place it under a chair.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

~~invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.~~

Claims 7, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston. As stated above, Johnston teaches the limitations of claim 1, including a tabletop, pole and base. For claims 7, 9 and 10, Johnston fails to teach that the tabletop is polyhedral in shape and that the base can be ellipsoidal and/or planar polyhedral. It would have been an obvious design consideration to one having ordinary skill in the art at the time of the invention to modify the shape of the tabletop/base, including making them polyhedral and/or ellipsoidal, depending on the desired need of the person constructing the table, e.g. for aesthetic purposes, etc.

Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siff in view of Burrows. As stated above, Siff teaches the limitations of claim 1, including a tabletop, pole and base rotatably attached together. For claims 2 and 12 , Siff fails to teach an attachment pin on the pole, extending through the tabletop. Burrows teaches an attachment pin (D) attached to the top end of a pole and through a tabletop (see Fig. 2). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the rotating means between the tabletop and pole of Siff by using an attachment pin arrangement, such as is taught by Burrows (adding an opening in the table top and inserting the pin over the top end of the pole), instead of the threaded arrangement presently used, since these means are functional equivalents and it appears that either means would work equally well to rotate the tabletop relative to the pole. Furthermore, the means of Burrows would provide a more simplified structure, the rotating means being comprised of one member.

For claim 12, Siff fails to teach that the pin is ellipsoidal. It would have been an obvious design consideration to one having ordinary skill in the art at the time of the invention to modify the shape of the pin, including making it ellipsoidal, depending on the desired need of the person constructing the table, e.g. for aesthetic purposes, gripping comfort purposes, etc.

Claims 7, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siff. As stated above, Siff teaches the limitations of claim 1, including a tabletop, pole and base. For claims 7, 9 and 10, Siff fails to teach that the tabletop and base are polyhedral in shape and that the base can be ellipsoidal. It would have been an obvious design consideration to one having ordinary skill in the art at the time of the invention to modify the shape of the tabletop/base, including making them polyhedral and/or ellipsoidal, depending on the desired need of the person constructing the table, e.g. for aesthetic purposes, etc.

Claims 14, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siff. As stated above, Siff teaches the limitations of claim 1, including a tabletop, pole and base attached together via various threaded means. For claims 14, 17 and 19, Siff fails to teach that threaded recesses are located on the pole and that treaded projections are located on the tabletop and base. It would have been obvious to one having ordinary skill in the art at the time of the invention to switch the projections/recesses found between the members of the table, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. In re Einstein, 8 USPQ 167.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkins
November 23, 2004

J.M.W.
JANET M. WILKENS
PRIMARY EXAMINER
A.U. 3637